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December 21, 1987

The Honorable Dave Carson
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Ms. Judy Zingg, Executive Director
Arizona Board of Examiners for
Nursing Care Institution Administrators
1645 West Jefferson, Room 410
Phoenix, Arizona 85007

Re: I87-162 (R87-174 & R87-183)

Dear Representative Carson and Ms. Zingg:

You both have asked whether the Superintendent of the Arizona Pioneer's Home must be licensed as a nursing home administrator. We conclude that because the Arizona Pioneer's Home has a statutory exemption from the provisions regulating nursing care institutions, the superintendent is not required by statute to be licensed as a nursing home administrator.

A.R.S. § 41-922 requires the Governor to appoint a Superintendent of the Arizona Pioneer's Home, but does not provide any particular qualifications for the Superintendent. The Superintendent's duties are described in A.R.S. § 41-924(B), which charges the Superintendent generally with the "care custody and management of the home" and requires that the Superintendent:

shall admit persons to the home and shall see
that persons admitted to the home are
comfortably cared for, fed, clothed and
furnished with necessary medical treatment.

Nursing care institutions are regulated pursuant to
A.R.S. Title 36. "Nursing care institution" is defined in

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A.R.S. § 36-401(21). A "nursing care institution administrator" is defined in A.R.S. § 36-446(1) as:

any individual who is charged with the general administration of a nursing care institution, whether or not such individual has an ownership interest in such institution and whether or not his or her functions and duties are shared with one or more other individuals.

(Emphasis added.) A.R.S. § 36-446.01(A) states:

No nursing care institution shall operate in this state except under the supervision of an administrator licensed pursuant to this article.

(Emphasis added.)

The issue is whether the Superintendent of the Pioneer's Home is the administrator of "a nursing care institution." In 1980, the legislature exempted the Arizona Pioneer's Home from coverage of Chapter 4, Title 36, as follows:

Nothing in this chapter . . . authorizes the licensure, supervision, regulation or control of:

8. The Arizona pioneer's home. However, the department of health services shall evaluate the health and sanitation conditions at the Arizona pioneer's home semiannually using the standards applicable to license nursing care institutions. Reports of such visits shall be prepared and disseminated to the president of the senate, the speaker of the house of representatives and the governor within thirty days of such visits. Reports shall include information as to extent of compliance with applicable standards as compared to licensed nursing care institutions and recommendations for the improvement of care and services provided.

A.R.S. § 36-402(8). Accordingly, the Arizona Pioneer's Home itself is not subject to licensure, supervision, regulation or

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control by the Department of Health Services or the Nursing Care Institution Administrator's Board of Examiners. Because of this exemption, the Superintendent of the Arizona Pioneer's Home is not required, by statute, to be licensed pursuant to A.R.S. §§ 36-446 to -446.11.

Sincerely,



BOB CORBIN
Attorney General

BC:JDR:txc